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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT SEATTLE

9 BARCELO HOMES, INC., et al.,

10 Plaintiffs,

11 v.

12 KINSALE INSURANCE COMPANY,

13 Defendant.
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Case No. 20-1719RSL

ORDER GRANTING
MOTION FOR LEAVE TO
AMEND ANSWER

16 This matter comes before the Court on defendant's "Motion for Leave to Amend
17 Answer." Dkt. # 19. Defendant seeks to amend its answer to assert additional affirmative
18 defenses and to assert a counterclaim and third-party claims for declaratory judgment.
19 Defendant's proposed amendment involves adding new parties to the instant action.

20 The Court's case management order set February 1, 2021 as the deadline to join
21 additional parties and September 8, 2021 as the deadline for amending the pleadings. Dkt. # 14.
22 Thus, the deadline to join additional parties has passed, but the deadline for amending the
23 pleadings has not. Defendant may amend its answer only with the Court's leave because more
24 than 21 days have elapsed since it served its original answer. See Fed. R. Civ. P. 15(a); Dkt.
25 # 10 (answer was filed on December 4, 2020). Courts "should freely give leave [to amend] when
26 justice so requires." Fed. R. Civ. P. 15(a)(2). There is a "strong policy in favor of allowing
27 amendment" after "considering four factors: bad faith, undue delay, prejudice to the opposing
28 party, and the futility of amendment." Kaplan v. Rose, 49 F.3d 1363, 1370 (9th Cir. 1994),
ORDER GRANTING MOTION FOR LEAVE
TO AMEND ANSWER - 1

1 overruled on other grounds in City of Dearborn Heights Act 345 Police & Fire Ret. Sys. v.
2 Align Tech., Inc., 856 F.3d 605 (9th Cir. 2017); Allen v. City of Beverly Hills, 911 F.2d 367,
3 373 (9th Cir. 1990). Additionally, where a party seeks to alter a case management deadline
4 established by the Court, the party must show good cause. Fed. R. Civ. P. 16(b)(4).

5 Plaintiffs have not alleged any evidence of bad faith, undue delay, prejudice, or futility
6 related to defendant's proposed amendments. In fact, plaintiffs did not file any response to
7 defendant's motion, which the Court construes "as an admission that the motion has merit."
8 LCR 7(b)(2). Defendant has sufficiently explained why the proposed amendments are necessary
9 for fair and just resolution of all claims related to this insurance dispute. See generally Dkt. # 19.
10 Accordingly, the Court finds good cause for modifying the deadline and finds that justice
11 requires giving leave to amend defendant's answer. See Fed. R. Civ. P. 16(b)(4); Fed. R. Civ. P.
12 15(a)(2).

13 The instant action involves liability coverage for claims made by third-party defendants
14 against plaintiffs. Defendant is an insurance company that insured plaintiffs under at least one
15 liability insurance policy. Dkts. # 1-2, # 10, # 19. Plaintiffs are defendants in two underlying
16 lawsuits: Odessa Condominium Owners Association, et al. v. Barcelo Madison Park, LLC, et
17 al., King County Superior Court Case Number 19-2-14747-4, and Tribrach Capital v. Barcelo
18 Homes, Inc. et al., King County Superior Court Case Number 19-2-19843-5. Id. Defendant
19 agreed to defend plaintiffs pursuant to an express reservation of rights. Dkts. # 1-2, # 10, # 19,
20 # 20-3, # 20-4. Plaintiffs originally filed this suit based on an issue relating to pre-tender defense
21 costs. Dkts. # 1-2, # 19. Defendant now asserts that there are multiple coverage issues that may
22 operate to preclude coverage to plaintiffs in both of the underlying lawsuits. Dkt. # 19 at 3–6.
23 Defendant is seeking a declaratory judgment on exclusions/provisions under its policy that it
24 does not owe plaintiffs insurance coverage for claims brought against them in the underlying
25 lawsuits. Id. The proposed third-party defendants are injured party claimants that defendant has
26 the obligation to join in an action for declaratory judgment concerning insurance coverage. See
27 Allstate Ins. Co. v. King, 2013 WL 5302494, at *1 (W.D. Wash. Sept. 19, 2013) (collecting
28 cases).

1 Given that defendant's new counsel only recently appeared in this matter and made
2 defendant aware of the concern regarding amending the pleadings and avoiding incurring
3 inconsistent obligations, Dkts. # 19, # 20 ¶ 6, this cuts against finding any bad faith or undue
4 delay here. Additionally, no discovery has been conducted in this matter beyond exchanging
5 initial disclosures, Dkt. # 20 ¶ 7, and while the deadline to join additional parties recently passed
6 on February 1, 2021, the Court's deadline to amend pleadings is still many months out
7 (September 8, 2021), the discovery cutoff is not until November 7, 2021, and the trial date is
8 March 7, 2022. Dkt. # 14. In other words, the parties will have more than adequate time to
9 conduct any discovery and file any dispositive motions they see fit. There is no apparent
10 prejudice to the non-movants.

11 For the foregoing reasons, defendant's motion, Dkt. # 19, is GRANTED. Defendant shall
12 file an amended answer consistent with the proposed amendments it has submitted, Dkt. # 20,
13 Ex. E, within ten days of this order.

14 DATED this 13th day of April, 2021.

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18 Robert S. Lasnik
19 United States District Judge
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